

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15390 of 2022**

Arising Out of PS. Case No.-269 Year-2021 Thana- VIJAYEPUR District- Gopalganj

Amarjeet Kushwaha, Son of Sri Ramnagina Kushwaha Resident of Village-
Sita Patti Chakhni Tola, P.S.- Vijaipur, District- Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Upendra Yadav, Advocate.

For the Opposite Party/s : Mr. Brajendra Nath Pandey, APP.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 25-08-2022 Heard Mr. Upendra Yadav, learned counsel appearing
on behalf of the petitioner and Mr. Brajendra Nath Pandey,
learned A.P.P. for the State.

Let the defect(s), if any, be removed within two
weeks of the complete start of the physical Court in normal
course.

The petitioner seeks regular bail in connection with
Vijaipur P.S. Case No. 269 of 2021 for the offence punishable
under Sections 20, 22, 24, 25 and 29 of the N.D.P.S. Act.

Allegation is of recovery of 40 Kg 200 grams of ganja
(Marijuana) from a Gothula situated behind the house of the
petitioner. Petitioner was apprehended while he was trying to
flee away from his shop.

Learned counsel appearing on behalf of the petitioner



submitted that petitioner is innocent and he has falsely been implicated in the present case. Nothing has been recovered from conscious possession of the petitioner rather the recovery has been made from a Gothula which is situated 400 meters away from the house of the petitioner. The place of recovery is an open and abandoned place and does not belong to the petitioner nor the petitioner is *Raiyat* of the said land recorded in the Government Records of Rights. Charge has already been framed and trial has proceeded. Petitioner is in custody since 06.12.2021.

Learned A.P.P. for the State has opposed the prayer for grant of bail to the petitioner. He submitted that 40 Kg 200 grams of ganja is more than commercial quantity and petitioner has not been able to bring even a chit of paper to show that the land from which alleged recovery has been made does not belong to the petitioner. In that view of the matter, petitioner don't deserve to be released on bail.

Having considered the nature of allegation made in the F.I.R. and the place from which alleged ganja has been recovered is 400 meters away from the house of the petitioner and does not belong to the petitioner, petitioner is directed to produce the *khatian* relating to the land from where alleged



recovery of ganja has been made before the court below. If from the records of right, it appears that the said land from which alleged recovery of ganja has been made, as per the prosecution case, belongs to some other person or it is a fallen land belonging to the government, the petitioner, above named, who is in custody since 06.12.2021, be released on bail on furnishing bail bond of Rs.25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned District and Sessions Judge, Gopalganj in connection with Vijaipur P.S. Case No. 269 of 2021, subject to the following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(2) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

(3) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(4) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bonds.



(5) The court below is directed to verify the criminal antecedent of the petitioner and if it is found that the petitioner is involved in some other cases as what has been stated in Para-3 of the bail petition, this order will automatically loose its force.

Superintendent of Police, Gopalganj is directed to produce all the prosecution witnesses on each and every date fixed by the trial court without fail.

(Purnendu Singh, J)

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